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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,817	04/06/2006	David Goujon	Q94296	3661

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EXAMINER	
NICHOLS II, ROBERT K	

ART UNIT	PAPER NUMBER
3754	

MAIL DATE	DELIVERY MODE
10/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/574,817	GOUJON ET AL.	
	Examiner	Art Unit	
	ROBERT K. NICHOLS II	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 April 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04/06/2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *04/06/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. FR 03 11 719, filed on 10/07/2003.

Preliminary Amendment

The preliminary amendment filed on 04/06/2006 has been entered.

Specification

The abstract of the disclosure is objected to because the use of legal term “said” throughout the abstract. Correction is required. See MPEP § 608.01(b).

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. It is noted that all elements of Applicant's claimed invention are not illustrated using reference numerals. For i.e. it isn't clear what elements constitute the "blind hollow", and "through hollow".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

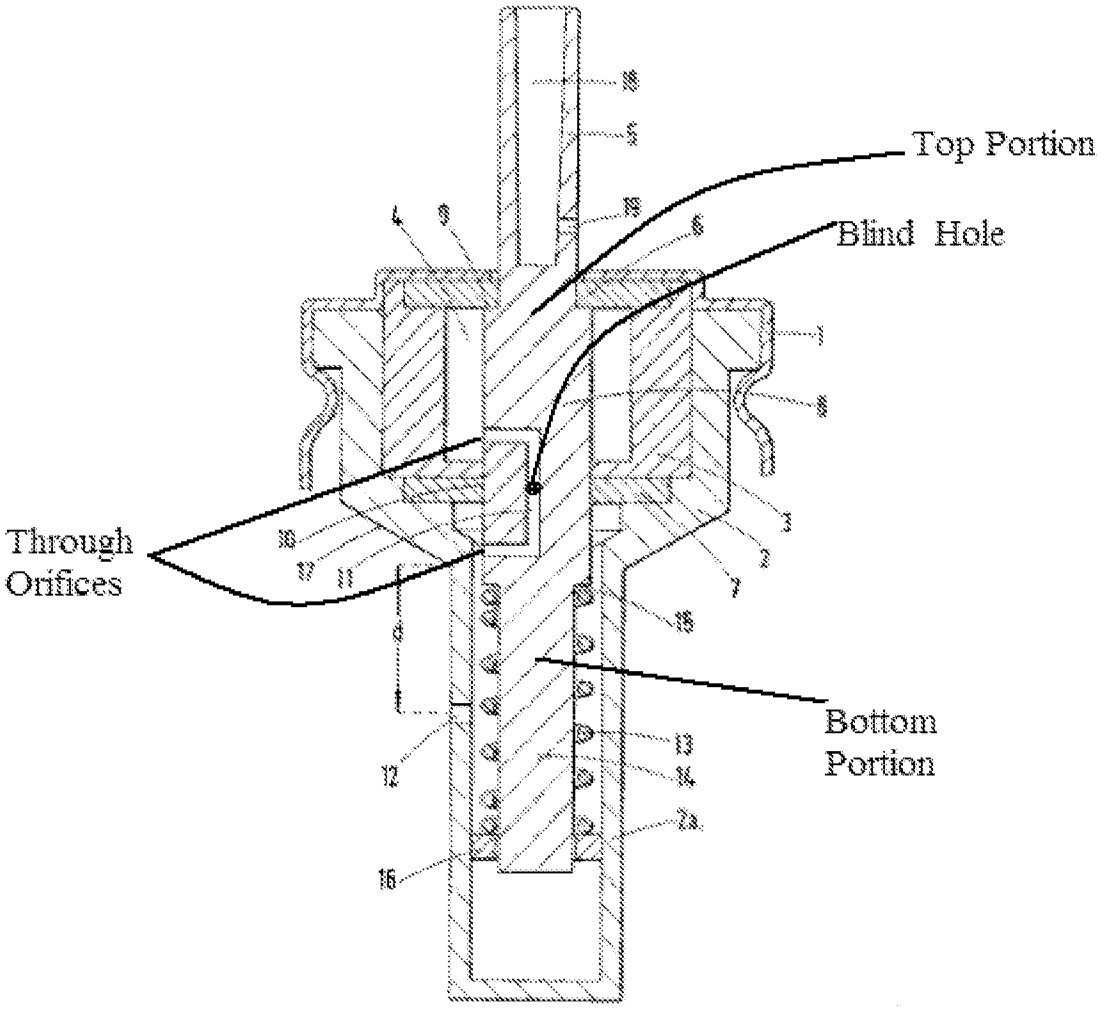
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burt et al. (US 4,863,073) in view of Warby (US 6,006,954).

Regarding claims 1 and 14, Burt discloses A fluid dispenser valve including a valve body 2 and a valve member 8 that is slidable in the valve body 2 between a rest

position and a dispensing position, the valve member 8 including a dispenser orifice 18, the valve being characterized in that it includes an axial guide element 16 that co-operates with a guided portion 14 of the valve member 8, the guided portion 14 being remote from the dispenser orifice 18, and in that the valve member includes a top portion including the dispenser orifice 18, and a bottom portion including the guided portion 14 (see marked-up figure 2).



Burt Marked Up Figure 2

Regarding claim 2, Burt discloses the guide element 16 being secured to the valve body 2, in particular by being made integrally therewith (see figure 2).

Regarding claim 3, Burt discloses the guide element 16 is a hollow sleeve having an inside diameter that is approximately equal to the outside diameter of the guided portion 14 of the valve member 8 that is slidable in the hollow sleeve 16 (see figure 2).

Regarding claim 4, Burt discloses the hollow sleeve 16 having a blind hollow (see figure 2).

Regarding claim 6, Burt discloses the valve being a metering valve including a metering chamber 4, the valve member 8 including a dispenser channel connecting the metering chamber 4 to the dispenser orifice 18 when the valve member 8 is in its dispensing position, and a filler channel 11 for filling the metering chamber 4 when the valve member 8 returns to its rest position (see marked-up figure 2 and column 4, lines 42-56).

Regarding claim 8, Burt discloses the bottom portion of the valve member 8 includes a blind hole including two lateral through orifices, with one orifice opening out into the metering chamber 4 when the valve member 8 is in its rest position, the top

portion of the valve member 8 being fitted in the blind hole so as to close said blind hole axially (see marked-up figure 2 and column 4, lines 42-56).

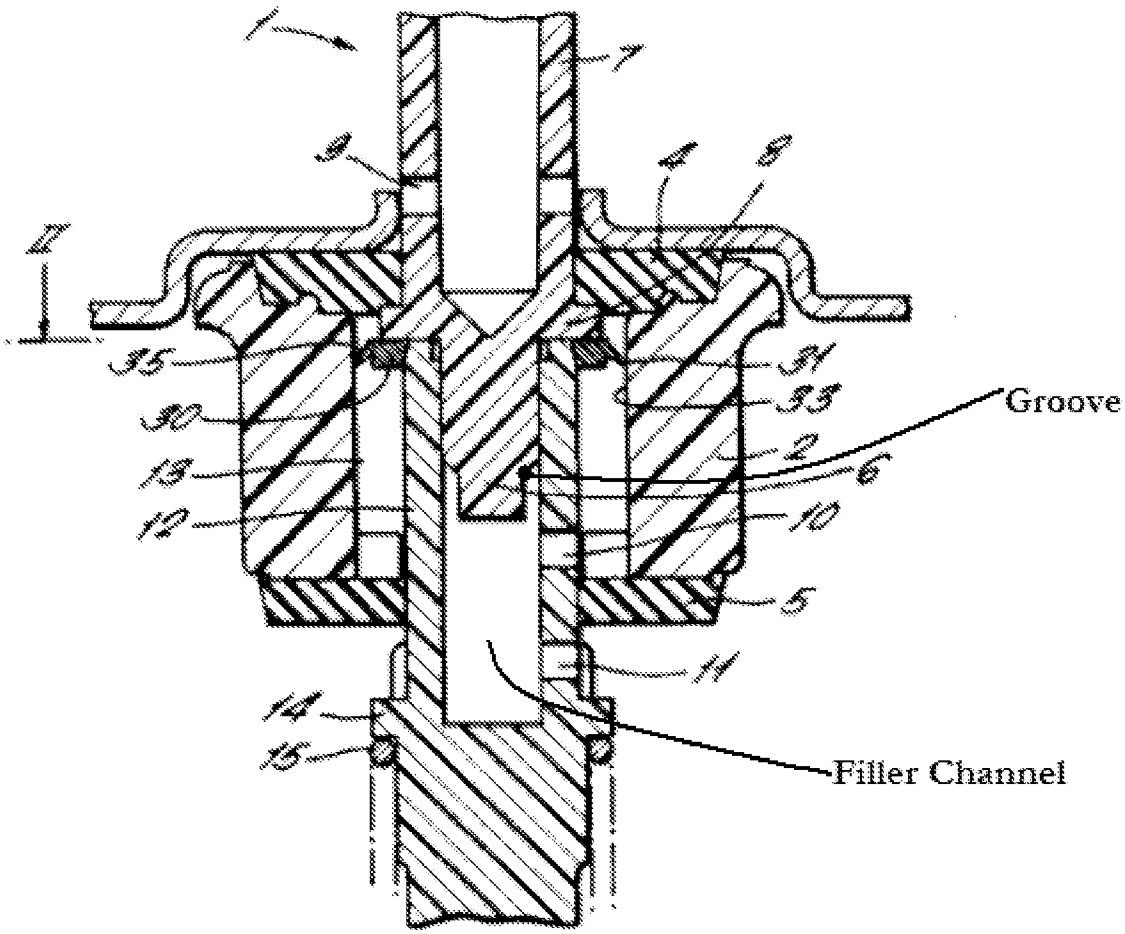
Regarding claim 9, Burt discloses the blind hole of the bottom portion of the valve member 8 forms a central axial channel that is connected to said two lateral orifices, thereby forming the filler channel 11 (see marked-up figure 2).

Regarding claim 10, Burt is silent to the cross sectional shape of the channel. However, it would have been an obvious matter of design choice to make the channel of a triangular or of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Examiner notes that a change in shape i.e. from a rectangular cross section to a triangular cross section will expectedly decrease the section of the channel.

Regarding claims 1-4, 6-11 and 14, Burt discloses all the elements of the claimed invention except the top and bottom portions being assembled one in the other.

Warby teaches a fluid dispenser valve including a valve body 2, a valve member 1 that is slidable in the valve body 2 between a rest position and a dispensing position. Warby further discloses the valve member to include a top portion or upper end portion 7 including a dispensing orifice and a bottom or lower portion 12, wherein the top portion of the valve member 1 includes a groove that extends axially and that co-

operates with a blind hole of the bottom portion of the valve member 1 to define at least one portion of the filler channel. Warby additionally discloses the top portion 7 including a dispensing orifice and a bottom portion12 being assembled one in the other (see marked-up figure 1).



Warby Marked up Figure 1

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have assembled the top and bottom portions of the Burt device

one in the other, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burt et al. (US 4,863,073) and Warby (US 6,006,954), in view of Meshberg (US 3,187,962).

Regarding claim 5, the combination of Burt and Warby discloses all the elements of the claimed invention except the hollow sleeve having a through hollow.

Meshberg teaches a fluid dispenser valve including a valve body 18a, an axial guide element that co-operates with a guided portion 42a of the valve member, wherein the guide element is a hollow sleeve having an inside diameter that is approximately equal to the outside diameter of the guide portion of the valve member. Meshberg further discloses the hollow sleeve to include a through hollow 47 which provides an inlet port when the stem is in its normal non-dispensing position (see figures 3, 4 and column 3, lines 34-47).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the hollow sleeve of the combination device of Burt and Warby with a through hollow, as taught by Meshberg, in order to provide an inlet port when the stem is in its normal non-dispensing position.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burt et al. (US 4,863,073) and Warby (US 6,006,954) as applied to claims 1-4, 6-11 and 14 above, and further in view of Bryant et al. (US 5,772,085).

Regarding claims 12 and 13, the combination of Burt and Warby discloses all the elements of the claimed invention except at least one of the lateral orifices being conical in part, tapering towards the blind hole and the minimum diameter of the at least one conical orifice being about .3 mm.

Bryant teaches a fluid dispenser valve including a valve member 12 having lateral orifices or apertures 28 that may have a variety of configurations. Bryant discloses a lateral orifice conical in part, tapering towards the blind hole or passage which facilitates movement of the sealing element over the aperture during movement of the valve. Bryant additionally teaches the dimensions of the apertures are selected to define the desired metered volume to be dispensed (see figure 6b and column 10, lines 40-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the combination device of Burt and Warby, with at least one of the lateral orifices of being conical in part, tapering towards the blind hole as taught by Bryant, in order to facilitate movement of the sealing element over the aperture during movement of the valve.

Furthermore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the combination device of Burt and Warby with the minimum diameter of the at least one conical orifice being about .3 mm, since it

has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Applicant should note that reference numerals throughout claims 1-14 do not represent a positive limitation. Therefore, reference numerals throughout the noted claims have not been given patentable weight.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Langford (US 5,037,012), Warby (US 6,131,777), Wickman (US 2008/0135584), Shay (US 4,362,257) and Gorman (US 3,394,851) show other dispensing devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT K. NICHOLS II whose telephone number is (571)270-5312. The examiner can normally be reached on Mon-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert K Nichols II/
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art Unit 3754